

1 GEORGE M. NEWCOMBE (Bar No. 202898)
gnewcombe@stblaw.com
2 JAMES G. KREISSMAN (Bar No. 206740)
jkreissman@stblaw.com
3 SIMPSON THACHER & BARTLETT LLP
2550 Hanover Street
4 Palo Alto, California 94304
Telephone: (650) 251-5000
5 Facsimile: (650) 251-5002

6 Attorneys for Defendants Richard S. Fuld,
Jr., Christopher M. O'Meara, Joseph M.
7 Gregory, Ian Lowitt, David Goldfarb, John
F. Akers, Roger S. Berlind, Marsha Johnson
8 Evans, Roland A. Hernandez and Henry
Kaufman

9
10
11 UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION
14

15 CITY OF SAN BUENAVENTURA,

16 Plaintiff,

17 v.

18 RICHARD S. FULD, JR., CHRISTOPHER M.
19 O'MEARA, JOSEPH M. GREGORY, ERIN
CALLAN, IAN LOWITT, DAVID GOLDFARB,
20 JOHN F. AKERS, ROGER S. BERLIND,
MARSHA JOHNSON EVANS, ROLAND A.
21 HERNANDEZ, HENRY KAUFMAN, ERNST &
YOUNG LLP, and DOES 1 through 20,

22 Defendants.
23

Case No. C 09-0877 WHA

**STIPULATION AND [PROPOSED]
ORDER STAYING CASE PENDING
DETERMINATION BY THE
JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION TO
TRANSFER CASE PURSUANT TO 28
U.S.C. § 1407 AND EXTENDING
TIME TO ANSWER OR
OTHERWISE RESPOND TO THE
COMPLAINT**

24 WHEREAS on or about February 18, 2009, Plaintiff City of San Buenaventura
25 ("Plaintiff") filed the Complaint in this case in the Superior Court of the State of California,
26 County of San Francisco;
27

1 WHEREAS on February 27, 2009, Defendants Richard S. Fuld, Jr., Christopher
2 M. O'Meara, Joseph M. Gregory, Ian Lowitt, David Goldfarb, John F. Akers, Roger S. Berlind,
3 Marsha Johnson Evans, Roland A. Hernandez and Henry Kaufman timely filed a Notice of
4 Removal in this Court; and Defendant Ernst & Young LLP filed a joinder to the Notice of
5 Removal on March 2, 2009;

6 WHEREAS cases sharing common questions of fact with this case have
7 previously been transferred from this District by the Judicial Panel on Multidistrict Litigation
8 (the "MDL Panel") to the Honorable Lewis A. Kaplan of the United States District Court for the
9 Southern District of New York pursuant to 28 U.S.C. § 1407;

10 WHEREAS on March 5, 2009, certain Defendants filed a "tag-along" notice with
11 the MDL Panel to inform the MDL Panel that this action is related to other actions previously
12 transferred by the MDL Panel to the Southern District of New York;

13 WHEREAS previously removed related cases, Zenith Insurance Co. v. Fuld, et
14 al., Case No. C 08-5352-SC, San Mateo County Investment Pool v. Fuld, et al., Case No. C 08-
15 5353-SC, Lou Solton, Monterey County Treasurer, on behalf of the Monterey County
16 Investment Pool, v. Fuld, et al., Case No. C 08-5167 SC, and City of South San Francisco v.
17 Citigroup Global Markets Inc., et al., Case No. C 09-0501 SC, were stayed by the Honorable
18 Samuel Conti pending transfer of the actions by the MDL Panel to the Southern District of New
19 York;

20 WHEREAS Plaintiff does not intend to oppose the MDL Panel's transfer of this
21 action to the Southern District of New York;

22 WHEREAS Plaintiff intends to file a motion to remand in this action following
23 transfer of the action to the Southern District of New York, or earlier if permitted by that Court;

24 NOW, THEREFORE, pursuant to Civ. L.R. 6-1(a), the undersigned parties
25 hereby stipulate that:

26 This case shall be stayed pending issuance of a transfer order by the MDL Panel;

1 Plaintiff's time within which to file a motion to remand shall be extended until
2 such time as ordered by Judge Kaplan in the Southern District of New York following transfer of
3 this action; and

4 Defendants' time within which to answer or otherwise respond to the Complaint
5 is extended to 30 days from the issuance of an order deciding Plaintiff's remand motion or such
6 time as ordered by Judge Kaplan in the Southern District of New York following transfer of this
7 action.

8 Dated: March 9, 2009
9

10
11 /s/ James G. Kreissman
12 JAMES G. KREISSMAN
13 SIMPSON THACHER & BARTLETT LLP

14 Attorneys for Defendants
15 RICHARD S. FULD, JR., CHRISTOPHER M. O'MEARA,
16 JOSEPH M. GREGORY, IAN LOWITT, DAVID
17 GOLDFARB, JOHN F. AKERS, ROGER S. BERLIND,
18 MARSHA JOHNSON EVANS, ROLAND A.
19 HERNANDEZ, AND HENRY KAUFMAN

20 /s/ Mark C. Molumphy
21 MARK C. MOLUMPHY
22 COTCHETT, PITRE & MCCARTHY

23 Attorneys for Plaintiff
24 CITY OF SAN BUENAVENTURA
25
26
27
28

Stipulation and [Proposed] Order Staying Case Pending Transfer Determination by MDL Panel and Extending Time to Respond to Complaint – Case No. C 09-0877 WHA